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## THE ORIGIN OF THE STANDING-COMMITTEE SYSTEM IN AMERICAN LEGISLATIVE BODIES.

MR. BRYCE and Mr. Woodrow Wilson have familiarized us all with the knowledge that the transaction of business through standing committees is one of the most important peculiarities of the American legislative system — perhaps, indeed, its most distinctive peculiarity. Both in Congress and in the state legislatures, this is the system of procedure universally followed. It is therefore somewhat surprising that no attempt appears to have hitherto been made toward tracing completely the history of an institution of such obvious importance. Doubtless it is but one more illustration of the apathy with which students of American constitutional history have in former times regarded the history of all parts of our frame of government which have not been embodied in the document called the Constitution of the United States. So far as the writer knows, the history of the American standing committee before 1789 has not been treated at all. Its history after that time we know, — a history of gradual development from slight beginnings in the earlier Congresses, more especially in the House of Representatives. It seems to have been assumed that this is all. It is the object of the present paper to demonstrate that, on the contrary, the institution has a history extending far back into the past of the Anglo-American people, and to trace that history, from the procedure of the House of Commons under Queen Elizabeth, through that of the colonial legislative assemblies, down to the time of the Revolution and the assembling of federal congresses. No doubt there are two special reasons why this has not been done before : first, that the system, while it prevailed in earlier days in the House of Commons, long ago became virtually extinct in that body, so that observers in our own time have regarded it as a purely American invention ; and second, that it did not prevail in the

colonial legislatures of New England, on which account those American historical writers who have been New Englanders—perhaps a majority of all—have overlooked the fact of its existence in times anterior to 1789.

The standing-committee system, in its modern form, involves the following particulars : the institution by a legislative body, (1) as a regular practice, of (2) several committees, (3) composed of its own members and (4) continuing in existence throughout the session, each of which (5) has charge of a specific division of the business of the house in such manner that all matters falling within that division are regularly and usually referred to that committee for preparative consideration previously to final action upon them by the house. Germs of such a system in the procedure of the English Parliament may perhaps be discovered in the practice, begun in the reign of Edward I and till as late as 1886 solemnly continued, of appointing at the beginning of the session two groups of triers of petitions, one for England, Ireland, Wales and Scotland, the other for Gascony and other lands and islands beyond the sea, whose duty it was to sift petitions, and to report to the law-courts, king and Parliament those which should properly be referred to each.<sup>1</sup> But a germ from which the standing committee is more distinctly to be derived is the committee especially appointed to frame a particular statute from a petition or bill. Of such, an instance is found in the records of the House of Commons as far back as 1340.<sup>2</sup> From the beginning of the printed journals of the House of Commons (1547), we find instances of the reference of bills to one or two members, and of other special committees, such, for example, as the committee of six appointed in the first year of Queen Mary, “to inquire for Alexander Newell, Burgess of Loo in Cornwall, Prebend of Westminster, if he may be of this House”; committees for conference with the Lords ; or that committee consisting of “the Queen’s Council with twenty-four of the shires and six of Wales,” appointed in 1563 “for order to be taken concern-

<sup>1</sup> Stubbs, *Constitutional History*, II, 263 ; III, 452. Anson, I, 309, 310.

<sup>2</sup> Stubbs, II, 382 ; III, 466.

ing the subsidy.”<sup>1</sup> When Sir Thomas Smith, who died in 1577, wrote his famous treatise of the *Commonwealth of England*, committees for framing laws were already an essential part of the procedure of Parliament. In describing its organization, he says :

The Committies are such as either the Lords in the higher House, or Burgesses in the Lower House, doe choose to frame the Lawes upon such Bills as are agreed upon, and afterward to bee ratified by the same Houses.

Again, in speaking of the course of business, he says :

It chanceth sometime that some part of the Bill is allowed, some other part hath much controversie and doubt made of it ; and it is thought if it were amended it would goe forward. Then they choose certaine Committees [*i.e.*, committee-men] of them who have spoken with the Bill and against it, to amend it, and bring it againe so amended as they amongst them shal thinke meet.<sup>2</sup>

It marks a distinct forward step in the development of the institution when, at the beginning of Queen Elizabeth’s third Parliament, on April 6, 1571, we find a group of election cases, or a group of bills all relating to the same general subject, referred to a single committee.

This Day Mr. Treasurer, Mr. Servients Manwood, Geffrey and Lovelace, Mr. Fleetwood, Mr. Bell and Mr. Mounson are appointed to confer with Mr. Attorney and Mr. Solicitor, about the Return of the Burgesses following ; for that the same Towns returned no Burgesses the last Parliament, . . . And to meet To-morrow, at Afternoon, at Three of the Clock, in Mr. Treasurer’s Chamber at the Court. — Upon a Motion for Uniformity of Religion, and the Mention of certain Bills drawn for that Purpose the last Parliament, and for Redress of sundry Defections in those Matters, a Committee is, by the House, appointed of these following. . . .

On the next day a still further step in development is taken by the appointment of a committee “to meet in the Temple Church on Monday next, at two of the clock in the afternoon,” to “consider of those griefs and petitions, which had

<sup>1</sup> Commons Journals, October 12, 1553. D’Ewes’ Journals, 80.

<sup>2</sup> Smith, *Commonwealth* (ed. 1633), pp. 79, 93.

been touched and mentioned in the former dispute," namely, that concerning ecclesiastical affairs.<sup>1</sup> Here we for the first time find a committee charged, not with a single bill or set of bills, but with a general subject, with an entire division of the business of the house. In the same session we observe the appointment of what in modern American slang would be termed a "steering committee," certain members being made "Committees for appointing such bills for the common-weal as shall be first proceeded in, and preferred before the residue, but not to reject any."<sup>2</sup> D'Ewes comments on this as a rare precedent, and one that "may prove worthy of often imitation"; but it seems not to have been followed until, more than a century later, the same idea found expression in the development of the modern cabinet.

In the committees mentioned we find the germs of three of the great committees of subsequent times — the committee of privileges and elections, the committee of religion and the committee of grievances. But apparently they did not continue in the exercise of their functions throughout the session,<sup>3</sup> nor do we find an equally developed arrangement in operation during the first two sessions of Elizabeth's fourth Parliament. Yet of the increasing importance of committees of some sort we find an evidence in its third session, in the mention of the "committee chamber of this house."<sup>4</sup> At this session (February 24, 1580-81), a committee of elections was appointed, charged with more comprehensive functions than its predecessors; for it was ordered to examine all the election returns of the session and the orders and precedents formerly used in like cases, and to make report to the house accordingly.<sup>5</sup> In the next Parliament, that of 1584-85, there is a committee to consider what statutes shall be continued beyond the end of the present session, a committee to consider the petitions and grievances of the house regarding religion, and a committee on the penal laws.<sup>6</sup>

<sup>1</sup> Commons Journals, I, 83. D'Ewes, 156-158.

<sup>3</sup> See Commons Journals, April 28, 1571.

<sup>5</sup> Commons Journals, I, 129, 135. D'Ewes, 307.

<sup>6</sup> D'Ewes, 334, 339, 340, 344, 345, 355, 361, 366.

<sup>2</sup> D'Ewes, 179.

<sup>4</sup> D'Ewes, 302, 305.

But the main interest, for our subject, of this and the next three Parliaments lies in the development of the standing committee of privileges and elections. It was perhaps natural that this should be the first of the standing committees to attain full development, partly because of the nature of its business, involving many questions too detailed and complicated for discussion in the whole house, partly because of the increasing vigor with which the Commons were in this reign beginning to assert their privileges, among others that of determining all matters relating to their own elections. The committee mentioned as appointed in 1571 was simply a committee of elections. On February 13, 1584-85, the Recorder of London and two other members were appointed a committee on the

State and manner of the serving of Process upon any of the Members of this House from time to time during this Session as occasion thereof shall fall out, and after such information and intelligences thereof then further to impart the same to this House as occasion shall serve for further resolution.

A few days later we find this body called the committee of privileges: "Mr. Cromwell was added to the former committees for priviledges, and touching serving of process upon the members of this house and their servants."<sup>1</sup> In the next Parliament, that of 1586 and 1587, "Mr. Recorder of London . . . moved also that a like committee of this House may at this time be appointed, as had been the last Parliament, for the examining and reporting cases of priviledge," which was accordingly done.<sup>2</sup> Neither of these two Parliaments seems to have had a committee of elections. That of 1589 had both a committee of privileges and a committee of elections. On February 8, 1588-89, the following entry appears :

Upon a motion this day made by Sir Edward Hobby, touching the sundry abuses of returning the Knights and Burgesses into this House this present Session of Parliament, as in some not returned at all, some others returned erroneously, and for some places for which none hath been returned heretofore, and some returned superfluously,

<sup>1</sup> D'Ewes, 349, 355.

<sup>2</sup> *Ibid.*, 393.

as two for one place and one for two places, and other corrupt courses in sundry of the Returns, to the great prejudice both of the liberties and also of the service of this House ; it is ordered that it be committed unto [ten members and] Mr. Rowland Watson, Clerk of the Crown, and that he do attend as well with the Returns of the Sheriffs as with his own Book of the same Returns certified by him into this House, and to meet in the Exchequer Chamber upon Monday next at three of the Clock in the Afternoon.<sup>1</sup>

At the beginning of the eighth Parliament of Elizabeth the final step is taken ; these two functions are fused, and confided to the charge of one and the same committee. The record for February 26, 1592-93, recites :

Upon a Motion made by Sir George Moore touching some questions for the manner of Election of one Richard Hutton, returned into this House one of the Burgesses for the Borough of Southwark in the County of Surrey. . . . And upon another Motion thereupon also made by Mr. Wroth for a Committee for the Liberties and Privileges of the Members of this House and their Servants, it is upon the question Ordered, that all the Members of this House being of her Majesties Privy-Council, Sir William Moore, Mr. Serjeant Yelverton, Mr. Robert Wroth, . . . Sir George Moore, Sir Walter Raleigh, Sir Francis Drake, Mr. Tanfield, Mr. Francis Bacon [and others] shall, during all this present Sessions of Parliament, examine and make report of all such Cases touching the Elections and Returns of any the Knights, Burgesses and Barons of this House, and also all such Cases for priviledge as in any wise may fall out during all the same Sessions of Parliament.<sup>2</sup>

In this committee, with its roll of distinguished names, we have evidently the first fully-developed standing committee of the modern American type. In D'Ewes' journals of the same Parliament, a reference to a "general committee" appears to be the first mention of a committee of the whole ; yet since the passage shows that in such committee the speaker left the chair, we are warranted in supposing that the procedure in committee of the whole was already well determined.<sup>3</sup>

<sup>1</sup> D'Ewes, 429-431.

<sup>2</sup> *Ibid.*, 471 ; see also 479, 489.

<sup>3</sup> D'Ewes, 492, 493, 499 ; see also 630, 631. Heywood Townshend, *Historical Collections*, 198-200.

When the Parliament of 1597 and 1598 came together, the practice begun in the last Parliament seems to have been regarded as a matter of course.

Mr. Speaker putteth the House in remembrance for a Committee to be nominated to deal and travel in the examination of such Causes as shall occur in this House touching Priviledges and Returns during this present Sessions of Parliament, and from time to time to make Report to this House of their travel and proceedings therein, as occasion shall serve.

And a committee of about forty members was appointed, which served throughout the session.<sup>1</sup> The same Parliament had likewise a committee for the continuance of statutes.<sup>2</sup> D'Ewes notes it as a thing scarce to be patterned that in this Parliament a certain committee "had at one and the same time eleven bills in agitation before them, though all upon the matter tending to a like end and purpose."<sup>3</sup> The Parliament of 1601, the last of Elizabeth, had the same standing committees as its predecessor;<sup>4</sup> in the first Parliament of James, 1603-4, the famous cases of Goodwin and Sherley, the former involving a conflict with the crown, brought the house at once to the appointing of its committee of privileges and elections, and a comment in the Commons Journal declares that "this is a usual motion in the beginning of every Parliament."<sup>5</sup>

Assuming the standing committee to be by this time an established device of English parliamentary practice, let us seek such light as can be obtained upon the procedure of these committees in those early days. The mode of their appointment is described by D'Ewes, a member of the Long Parliament, "according," he says, "to the usual form, both then doubtless used, and at this day also."<sup>6</sup> The committee having been resolved upon, the speaker

<sup>1</sup> D'Ewes, 552, 553, 556, 558, 570, 572.

<sup>2</sup> Townshend, 104. D'Ewes, 555, 568, 572. Frequent subsequently; Commons Journals, I, 152, 177, 935, 457, 518.

<sup>3</sup> D'Ewes, 561.

<sup>4</sup> Townshend, 194, 282, 285, 290. D'Ewes, 622, 666, 684.

<sup>5</sup> Commons Journals, I, 149, 934.

<sup>6</sup> D'Ewes, 44. See also Townshend, 212; D'Ewes, 637.



did put the House in mind to name Committees [*i.e.*, committees-men]. And thereupon every one of the House that listed, did name such other Members of the same, to be of the Committee, as they thought fit ; and the Clerk either did, or ought to have written down as many of them as he conveniently could ; and when a convenient number of the Committees named were set down by the Clerk, then did the Speaker move the House to name the time and place, when and where they should meet, which the Clerk did also doubtless then take a note of, and did also (Silence being made in the House) read out of that Book or Paper (in which he had entred them) the Committees names, with the time and place of their meeting.

In the Parliament of 1604 a member proposed the lot as a more satisfactory means of selection, but the suggestion was not adopted.<sup>1</sup> In 1601 the rule was made that one who had spoken against a bill could not be a member of the committee upon it, though a member of the committee might speak against it after their report.<sup>2</sup> Upon the appointed day of meeting, the clerk gave to one of the members a list of the names, together with a minute of the scope of the committee's authority and the time and place of its meeting ; but the committee had the power to alter the last two, as well as to appoint sub-committees.<sup>3</sup> The committees seem always to have met in the afternoon, Parliament sitting in the morning. Places in which they sat were, besides the committee chamber already mentioned, "the Treasurer's Chamber at the Court," *i.e.*, the chamber of the Treasurer of the Household, the Star Chamber, the Temple Church, the Exchequer Chamber and the Court of Wards.<sup>4</sup> In the Parliament of 1601 Sir Edward Hobby complained that never more than three or four members came to the sittings of the committee of privileges ; in the next Parliament the rule was made that eight should constitute a quorum of any committee.<sup>5</sup>

<sup>1</sup> Commons Journals, I, 172.

<sup>2</sup> Townshend, 207-209. D'Ewes, 634, 635.

<sup>3</sup> Commons Journals, I, 150, 153, 273.

<sup>4</sup> Commons Journals, I, 83, 150, 151, 215, 976. D'Ewes, 80, 156, 158, 430. Townshend, 285.

<sup>5</sup> Townshend, 285. Commons Journals, I, 169, 944.

An interesting glimpse into a committee-room is afforded us by Heywood Townshend, a member of the Parliament of 1601. Though it seems to be a committee of the whole house of which he is speaking, the picture is probably not less true of special committees. After certain remarks by Sir Walter Raleigh,

Sir Edward Hobbie said, We cannot hear you speak out ; you should speak standing that so the House might the better hear you. So Sir Walter Raleigh said that being a Committee, he might speak either sitting or standing, and so repeated over again the former Speech. Mr. Secretary Cecill said, Because it is an Argument of more Reverence, I choose to speak standing.

Later he interrupts his speech to say :

If there be any that sits next the Door that desires to sit next the Chair to give his opinion, I will not only give him my place, but thank him to take my charge. This [says Townshend] was conceived to be Sir Edward Hobbie, who coming to sit near the Chair and none giving him Place, sate next the Door.<sup>1</sup>

From King James's first Parliament on, the House of Commons had constantly a standing committee of privileges and elections, appointed at the beginning of each session. This is the only select committee which is found existent in every session from the accession of the Stuarts to the outbreak of the Civil War. In the Parliaments of King James, grievances and matters of religion were confided, now to select committees, now to "grand committees," or, in modern parlance, committees of the whole. An intermediate plan is that of that general committee of grievances which was moved by Sir Edwin Sandys in the Parliament of 1610, and which consisted of the king's privy council, the first knight of every shire, all the lawyers of the house, the first burgess of every borough and Sir Edwin Sandys.<sup>2</sup> The Parliament of 1621 added two new committees of the whole. By reason of the great sums of money needed if England was to participate in the Bohemian war, it instituted a committee on the

<sup>1</sup> Townshend, 198, 199. D'Ewes, 630.

<sup>2</sup> Commons Journals, I, 394.

decay of trade and want of money; by reason of the abuses charged against certain courts, especially that of the Lord Chancellor Bacon, it instituted a committee of courts of justice, "to question all courts of justice, ecclesiastical or temporal."<sup>1</sup>

With these additions the House of Commons completed its system of grand committees, or committees of the whole. Religion, grievances, trade, courts of justice—these were the four grand committees which, from this time on, we find maintained in most Parliaments, together with a select committee of privileges and returns. A grand committee of religion seems not to have been appointed in 1621, nor is it clear that the complete system was in operation in the last Parliament of James (1624) or the first of his successor (1625), though in the latter there was a long debate on the subject.<sup>2</sup> In 1626 the house appointed a standing committee of religion, "and every one that will come to have voice."<sup>3</sup> But in the third Parliament of Charles (1628) the system above indicated came into complete operation. It was again employed in the Short Parliament, and at the beginning of the Long Parliament.<sup>4</sup> At the Restoration it was resumed, as we shall see, and it continued for more than a century and a half to be the typical form of organization of a House of Commons. Of the five committees mentioned, four were indeed committees of the whole. Yet the history of their development has formed a proper part of our investigation because, as will be seen later, all five were alike ancestors of the first standing committees in American legislative bodies.

How rapidly the plan commended itself to the Commons may be seen from a passage in the debate respecting the appointment of a committee in 1625. Some, the reporter tells us,

were unwilling to departe from the customes of the House by relinquishinge their committees; but Sir G. More affirmed that this is a

<sup>1</sup> Commons Journals, I, 514, 572. Proceedings and Debates, 1621 (1766), I, 27, 98; II, 175.

<sup>2</sup> Commons Journals, I, 800. Gardiner, Debates of 1625, pp. 7-11.

<sup>3</sup> Commons Journals, I, 817.

<sup>4</sup> *Ibid.*, I, 873, 920, II, 3, 4, 17, 20, 21.

custome of a late beginninge, and that in Q. Eliz. tyme noe such committees were appoynted but upon particular occasions.<sup>1</sup>

When, in the Parliament of 1621, it was proposed that three committees should sit during the Easter vacation, one to consider the bills, the second the petitions against courts of justice, the third the petitions of grievance, the same authority objected to this disposal of the bills, declaring that it was not fit nor ever, to his knowledge, used.<sup>2</sup> In 1625 it was resolved that the committee of privileges should "hear counsel and witnesses, and send for any records"; in 1626 the committee of religion was empowered to send for any persons, books or records necessary to their information.<sup>3</sup> In the same Parliament a select committee was appointed "to consider of an indifferent course for naming of committees."<sup>4</sup> At the beginning of the Long Parliament it was moved "that every man that names one for a committee, shall stand up, and, being uncovered, name the party."<sup>5</sup> Throughout the reigns of James and Charles, grand committees exercised the power of appointing sub-committees. On the other hand, select committees were often reinforced by volunteer associates, by distinct provision of the house that all that would come should have voices. The meaning of this phrase was discussed in the Parliament of 1621. Sir George Moore declared that in case the vote had passed in this form all members might come to give the committee information, but that only those should have votes who had been named members of the committee; that this was the ancient and best course. It was maintained by another member that a provision allowing all members voices was a valuable remedy for the "inconvenience of not putting in those which sit far off from the Chair." Members were still nominated by other members; it is mentioned that Mr. Speaker is to name no committee. Finally the house resolved "that, when limited, all that will come shall have voice, that they, in that case, if they come, are committees,

<sup>1</sup> Gardiner, *Debates of 1625*, p. 11.

<sup>2</sup> *Commons Journals*, I, 572.

<sup>3</sup> *Ibid.*, I, 800, 818.

<sup>4</sup> *Ibid.*, I, 829.

<sup>5</sup> *Ibid.*, II, 24.

as well as those nominated." But in the next Parliament it was voted that this was not the rule in the case of the committee of privileges.<sup>1</sup>

With the opening of the Long Parliament, the importance of the committees increased. When it had been sitting about two months, the house required the warden of the fleet to "take some course, that the rooms where the committees sit be not so thronged and pestered with unnecessary multitudes, that the committees themselves can neither get in nor out,"<sup>2</sup> a sign of increasing interest in their deliberations. Committees multiplied to excess, but most of them were temporary, expiring with the arrival of the house at a particular stage in its reformatory work. Such, for instance, were the committees on Strafford, on Laud, on the Remonstrance, on ship-money and on the Star Chamber. Parliamentary committees, either of the Commons or of Lords and Commons jointly, came to have great power, especially from the time when the rupture with the king and the outbreak of civil war threw executive business of great importance upon the houses. From this time on, and in the period of the Commonwealth, the government of England was government by committees. But the system was different from that hitherto existing. The grand committees seem to have fallen into abeyance, though the committee of elections continued. The most important committees of the years from 1642 to 1656 were the committee for the advance of money, the army committee, the committee for taking the accounts of the kingdom, the sequestration committee, the committee of safety, the committee of both kingdoms, and the committees for plundered ministers, for removing obstructions in the sale of delinquents' lands, for the relief of those who surrendered on articles of war, for compounding with delinquents, for indemnity, and for the sales of fee-farm rents or crown lands.<sup>3</sup>

<sup>1</sup> Commons Journals, I, 616, 617, 671. Pettyt, *Lex Parliamentaria*, 331.

<sup>2</sup> Commons Journals, II, 65, 88.

<sup>3</sup> *Ibid.*, II-VII. (The first mention of the term "standing committees" which I have met in the Journals is at VI, 20, under date of September 13, 1648.) Cf. also Mrs. Everett Green's prefaces to her *Calendar of the Proceedings of*

The Barebones Parliament of 1653 had naturally no committee of elections. It began with committees on Irish and Scotch affairs and the public revenue. It was characteristic of its temper that it chose not to revive the old scheme of committees, but on the eleventh day of its session appointed a committee for the right ordering and disposing of business by committees, whose effort was, systematically to arrange the business in classes and to confide each to a select body. The arrangement adopted by the house established, in addition to the three already mentioned, committees on the law, on the army, on petitions, on trade and corporations, and for receiving propositions for the advantage of the commonwealth, for the poor and for regulating commissions of the peace, on the public debts, on prisons, on titles, and on the advancement of learning.<sup>1</sup> This was a scheme of select standing committees much resembling the modern American plan. But Cromwell's Parliament of 1654 was of a more conservative disposition. We are told by a member that when, at the very beginning of the session, debate arose as to the Instrument of Government, some members objected that this was out of order,

in regard by the ancient orders Committees, especially their general Committees of Privileges, which concern the being, and of religion, grievances and courts of justice, which concern the well-being, of the Parliament, ought in the first place to have been settled.<sup>2</sup>

The Parliament was evidently disposed to revert to the "ancient orders." It appointed its standing committee of privileges, and, among other committees, grand committees of religion and trade. With the second Parliament of the Protectorate (1656-58) we find the House of Commons, in the same conservative spirit which inclined it to revert to monarchical institutions, completely restoring the old system of committees. Though it retains standing committees for Ireland and for the Committee for the Advance of Money, and her Calendar of State Papers, Domestic, 1649-1650.

<sup>1</sup> Commons Journals, VII, July 11, 20, 21, 1653.

<sup>2</sup> Notes of Guibon Goddard, printed in the Diary of Thomas Burton (ed. 1828), I, xxi.

Scotland, and for one or two financial matters, it institutes, as Parliaments had done before the Civil War, a select committee of privileges and returns, and grand committees of religion, grievances, trade and courts of justice. The same course is pursued by Richard Cromwell's Parliament, and, in part, by the Convention Parliament of Charles II. From the meeting of his second Parliament in 1661 down to the session of 1832, with scarcely any exception, at the beginning of each session the House of Commons appointed a number, generally from one hundred to three hundred, of its members to be a committee of privileges and returns, and appointed committees of the whole house for religion, grievances, trade and courts of justice. In the tenth session of the Cavalier Parliament, February 27, 1672-73, it was voted that all members of the house who should come to the sessions of the committee of privileges, should have voices. It had not been so voted before ; it was so voted in each instance thereafter.<sup>1</sup>

It was in the days of the later Stuarts that the Parliamentary system of committees made its transit from England to the American colonies. The subsequent history of the system in the House of Commons has no bearing on American institutions. Yet it is worth while to narrate it briefly, if only for the sake of explaining the absence of standing committees from the modern Parliamentary system of Great Britain. The story is a story of decline and neglect. If it seems remarkable that this should be so, in view of the obvious convenience of the standing committee as an instrument for the speedy transaction of legislative business, the explanation is not far to seek. The fact is that England, during the century which followed the Restoration, was gradually developing her system of cabinet government. Now the English cabinet is essentially an executive committee of the legislature, so organized that, in each department of governmental activity, the work preparatory to legislation is performed by a particular member of this committee and his official subordinates. Such a system makes less necessary the maintenance of standing committees of the legis-

<sup>1</sup> Commons Journals, VII *et seq.*

lature, charged each with a particular branch of the public business. In the House of Commons they did not develop, after the reign of Charles II, beyond the stage which they had reached in that reign, as already described. In fact, they receded from that point. For in 1708 the house resolved that all matters that should come in question touching returns or elections, should be heard at the bar of the house.<sup>1</sup> The ancient committee of privileges and elections continued, however, to be appointed, and indeed is still appointed at the beginning of each session ; but it neither meets nor transacts any business. In 1780 a case of a peer's interference in an election came before it and was reported upon. A minute in Lord Colchester's *Diary*, under date of 1827, states that the committee had not then sat for forty or fifty years. It was again called upon to act in 1847, upon the alleged interference of Earl Fitzhardinge in the election for West Gloucestershire. But if no such special reference is made, it is not appointed to sit. As for the ancient grand committees of religion, of grievances, of trade and of courts of justice, they have been entirely discontinued since 1832. In form, they had continued to exist up to that date ; for instance, Fox's great speech on the libel laws in 1791 was made upon the formal motion "that the Grand Committee for Courts of Justice do sit on Tuesday next."<sup>2</sup> In reality, however, the committees had long since fallen into disuse. A curious proof how entirely unfamiliar the system had become to others than experts in Parliamentary procedure, is afforded by a minor poem of Thomas Moore, entitled "Religion and Trade." It is headed by a quotation from a debate on church extension, May 22, 1830: "Sir Robert believed it was necessary to originate all legislation respecting

<sup>1</sup> Commons Journals, February 18, 1708. Sir William Anson, *Law and Custom of the Constitution*, I, 151, appears to be in error in saying that "finally, in the time of Speaker Onslow (1727-61), the confidence felt in him caused the parties to these (election) suits to ask a trial at the bar of the House." The vote cited was passed in the time of Speaker John Smith.

<sup>2</sup> May, *Parliamentary Practice*, 373. Lord Colchester's *Diary*, III, 481. Commons Journals, CIII, 139. Hansard's *Debates*, 3d series, vol. 95, cc. 1072, 1354. May, *Constitutional History*, II, 120.



religion and trade in a committee of the house";<sup>1</sup> and the opening lines are as follows :

Say, who was the wag, indecorously witty,  
Who, first in a statute, this libel convey'd ;  
And thus slily referr'd to the self-same committee,  
As matters congenial, religion and trade ?

Readers of what has preceded will perceive that Peel's remark implies no such reference to the "self-same committee"; but perhaps poets cannot be expected to know even so much of Parliamentary law as that the rules of the House of Commons are not "convey'd in statutes."

The recent attempts of the Commons to revive the standing committee system do not demand notice; and it is time to turn to the history of that system in the American colonies. In New England one does not find it existing at any time before the Revolution, and this, as has been suggested in the introduction, is doubtless one reason why its colonial history has not been followed. Committees charged with individual bills or matters of business, such as the auditing of the treasurer's accounts, are indeed found in all four of these colonies, but no system of standing committees; which is the more remarkable inasmuch as the colonial legislatures of New England were mostly much larger bodies than those of the colonies to the southward. In Connecticut the only standing committee to be noticed is that grand committee, or council of war, which, at intervals from 1673 on, was appointed and vested with extensive powers during the recess of the legislature.<sup>2</sup> Once (1729) the General Court of Massachusetts had a committee which is referred to as the committee of grievances. In nearly every Massachusetts house from 1715 to 1730 there is a committee of petitions. And on several occasions a committee is appointed to consider what acts that

<sup>1</sup> Under this date I find no such debate in Hansard. But on May 22, 1828, I find that Peel spoke on the abolition of church briefs (Hansard, 2d series, vol. 19, cc. 872-876), and this is no doubt what Moore refers to, though Hansard does not report these particular words.

<sup>2</sup> Colonial Records of Connecticut, II, 204, 205.

are expired or near expiring are proper to be re-enacted or revived, and what may be proper to be made ; this is sometimes called the committee for laws.<sup>1</sup> But the practice did not increase, nor was it organized into a system. Large as its numbers were, the house itself examined election returns.

The American system of standing committees, borrowed from England, was developed in the colonial assemblies of the middle and southern colonies, but earliest in Virginia and Maryland. It is true that the plan of appointing committees, more or less permanent, for the better despatch of the business pressing upon an assembly, was not a recondite or unnatural device. Virginia, for instance, had committees for the revisal of the laws in 1656, 1658, 1659 and 1661; committees of private causes in 1656 and 1659, and at least down to 1680, when appeals to the king in council began ; a committee of audit in 1660 ; and "public committees" to sit during the recess of the House of Burgesses in 1661, 1662 and 1663.<sup>2</sup> Even the small legislatures of Barbadoes and Bermuda had such committees at early dates.<sup>3</sup> But that the system was in reality founded in imitation of that of England, is proved by the fact that in those colonies where it obtained its earliest and fullest development, the names and functions of the committees resemble closely those of the five English committees whose history we have been following. Particularly is this the case in the Virginian House of Burgesses. In 1663, a few years after the English committee system assumed its final form, we find a committee of elections. In the same year a grand committee is mentioned ; but this seems to have been an ordinary committee of the whole, not an analogue of the four grand committees of the House of Commons.<sup>4</sup> Virginia developed committees corresponding to these four, but they were select committees. In 1677 we discover from a clerk's petition the existence of a committee of propositions and

<sup>1</sup> Journals of the House of Representatives of Massachusetts, 1715-1738.

<sup>2</sup> Henning's Statutes at Large, I, 421, 495, 512, and II, 34 ; I, 422, 512, 545, and II, 31, 147, 198 ; Mass. Hist. Soc. Coll., V, 139, 147.

<sup>3</sup> Calendar of State Papers, Colonial, I ; II, 126 ; III, 482, 1126.

<sup>4</sup> Henning, II, 198, 204.

grievances, with a clerk having a salary of fifty pounds sterling; the same committee reappears in 1684. In 1677, also, and again in 1679, 1691 and 1697, there is mention of a committee for public claims.<sup>1</sup> The same committee appears, along with a committee of elections and privileges and one of propositions and grievances, in the single early manuscript journal which chance has preserved at Richmond, that of the session of 1693. These three are noted in 1696-98 as constituting the usual system.<sup>2</sup> A petition to the House of Burgesses, in 1689, from one Lancelott Bathurst, shows him to have been clerk of a committee of grievances, of a committee for private causes and of another more exceptional committee. The committee of propositions and grievances appears again in 1710.<sup>3</sup> Thus all through the sixty years preceding the commencement of the printed journals of the Burgesses we catch glimpses which assure us of the existence of a well-developed system of standing committees, plainly founded on the committee system of the House of Commons. When the printed journals begin, in 1732, we find already established a regular system of four standing committees, one for privileges and elections, one for propositions and grievances, one for courts of justice and one for public claims. These four, three of which, it will be observed, bear names borrowed from the House of Commons, are found in all but a few of the briefest sessions of the Burgesses from this date to that of the Revolution. In 1742 another of the traditional committees of English procedure is added, by the institution of a committee of trade, henceforth always a part of the scheme. In the memorable session of 1765 a committee of religion was added.<sup>4</sup> Thus, as the numbers of the house increased, the system received its completion upon strictly English lines.

The history of the institution in Maryland extends nearly as far back as in Virginia. In 1678 we find the assembly possess-

<sup>1</sup> Virginia Calendar of State Papers, I, 11, 29, 55. Hening, II, 421, 455; III, 26. Fifty pounds was also in 1732 the salary of a clerk of a standing committee; Journals.

<sup>2</sup> Mass. Hist. Soc. Coll., V, 147.

<sup>3</sup> Virginia Calendar of State Papers, I, 22, 144, 145.

<sup>4</sup> Journals of the House of Burgesses, 1732-74.

ing a committee of privileges and elections, apparently a select committee, but the record is mutilated; a committee of laws is also mentioned. In 1682 a committee of trade appears at both sessions. Finally, in the autumn session of 1683, it is "voted that a committee of priviledges and eleccōns be appoynted to enquire of such matters as are usually enquired of by committees of that kind"; a form of phrase which supports the theory of conscious borrowing. It is also "voted that a committee for incouragement of trade be appoynted"; and a committee for inspecting the laws is also mentioned. These are from the early journals recently printed in the Maryland Archives.<sup>1</sup> The next journals of the lower house of Maryland which are at present accessible to the writer are those of 1753-59. Upon inspection of them we see that meantime the system has developed somewhat differently from that of Virginia, though upon the same general lines. The committees are not reconstituted at the beginning of a new session of the same house, as in Virginia, but the same members are continued upon them. Grievances (or "aggrievances") and courts of justice are united in the charge of the same committee. A committee of laws has charge of proposed new legislation, and the discussion of "laws that are expired or near expiring," which in Virginia was the affair of the committee of courts of justice, in Maryland belongs to this committee of laws. But this was not always appointed. Those that are to be found in each session are the committee of elections and privileges, the committee of aggrievances and courts of justice and the committee of accounts. A committee charged with the inspection of the public offices appears in 1757 and 1758, and others arise from the exigencies of the French war.<sup>2</sup>

Penn's Frame of Government, of 1682, in its thirteenth section provided for a division of the council of Pennsylvania into four committees. But the regulation was soon made that

<sup>1</sup> Assembly Proceedings, esp. p. 526.

<sup>2</sup> Votes and Proceedings of the Lower House, 1753-59, in the library of Harvard University.

the matters so provided for should be attended to by the council "as their numbers will give leave."<sup>1</sup> It does not appear that the division into committees was ever carried out. If so, it was for but a short time ; and presently a smaller council was substituted for that originally devised. The lower house also set out with an intention of transacting its business through standing committees, after the manner of the House of Commons. The first entry in its minutes is of the appointment of five members to be a committee of elections and privileges. Six others were named a committee for justice and grievances. A committee charged with the preparation of bills, and called the committee of foresight, was also chosen. A grand committee, or committee of the whole, is mentioned, and it is declared that the rules of the body shall be modeled upon those of the House of Commons. This was at the session beginning in December, 1682. At the beginning of the first session of the next assembly, convening in the next month,

the Speaker reads to the House the orderly Method of Parliaments, and the Demeanour of the Members thereof observed in England, which he recommended to them, as civil and good ; As also the Method observed by the English in Committees.

But in fact no standing committees were appointed in this session or in the next. The method was perhaps thought unnecessary in an assembly of only fifty-four members. At all events, with the exception of a committee of privileges and elections in 1684 and an occasional committee of grievances (1689, 1694, 1695, 1704), we find no standing committees in the lower house of the Pennsylvania legislature until 1720. In that year a committee of public accounts began to be appointed, and in 1722 a committee of grievances. From 1744 to 1775 there is in every session a committee of correspondence, a committee of public accounts and a committee of grievances or aggrievances. In certain years we also

<sup>1</sup> Minutes of the Council, I, 59.

find a committee on laws which have expired or are about to do so.<sup>1</sup>

Apparently the next colony in which the standing-committee system was developed was North Carolina. The early records of the legislature are imperfect. In the session of 1725-26, when we first find a journal of the lower house, that body has, before its session ends, committees of the whole on elections and on propositions and grievances. The latter, and a joint committee of accounts, appear in 1731. But in 1733 we find select committees of propositions and grievances and of public claims. Later, one of public accounts is added, and the assemblies immediately preceding the Revolution have also standing committees of privileges and elections.<sup>2</sup>

In the legislatures of Pennsylvania, Maryland, Virginia and North Carolina, the lower houses consisted during the eighteenth century of from fifty to a hundred members. That of New York comprised hardly more than twenty-five members, and had no urgent need to divide into committees. For instance, election cases were at first decided by the house, and not in grand committee. In 1699 there was a committee of elections, and select committees of accounts and of grievances. But from this time to 1737 we find few sessions in which there is more than one committee of the sort which we have been considering, no session in which there are more than two. In some sessions there are none. When there is a committee, it is either of elections or of grievances.<sup>3</sup> In 1737 the New York assembly falls into line with the practice of the House of Commons by instituting a select committee of privileges and elections, and grand committees of grievances, courts of justice and trade. From 1743 on, this system is found applied in every session down to the Revolution.<sup>4</sup>

The lower house of the legislature of New Jersey, a comparatively small body, remained without a system of standing

<sup>1</sup> Votes and Proceedings, esp. December 4, 1682, January 14, 1683.

<sup>2</sup> Colonial Records of North Carolina, II, 612; III, 260, 291, 566; IX, 450, 451, 739.

<sup>3</sup> Journals of the General Assembly of New York, I, 87, 95, 96, *etc.*

<sup>4</sup> *Ibid.*, I, 703, 704; II and III, *passim*.

select committees throughout its history, though in 1771 we find a vote for a committee of grievances, which was to be a committee of the whole house.<sup>1</sup> Concerning Delaware, South Carolina and Georgia the writer has no information. Doubtless enough has been gathered to establish his main points without these. It may be interesting to add, from a journal of the lower house of Jamaica in 1775, that that body then had select standing committees of privileges and elections, of grievances, of courts of justice, of public accounts, a committee to inspect the public offices and a committee on laws expiring.

It does not fall within the province of the present paper to trace the history of the standing committee, as an element in American legislative procedure, in times subsequent to the outbreak of the Revolution. Its history in the Continental Congress is familiar. So is its development in the federal Congress, from the slight beginning made in the House in 1789 down to the full completion of the system about the time of Speaker Clay. Indeed, as was said at the beginning of the article, this is the one part of the history of the system which has been studied. It will probably now be regarded as proved that the system originated long before 1789, and came by direct descent from England through certain of the colonial legislatures, five of the most important of which already made use of the procedure by standing committees when the Revolution occurred. As for those which did not, it appears that they gradually fell into line, under the influence of the federal legislature and of the legislatures of the other states. For instance, the Massachusetts legislature is shown by its manuscript journals to have had a few standing committees just after the close of the Revolutionary War, while its first little printed book of rules shows that it was provided with a pretty complete set in 1805.

J. FRANKLIN JAMESON.

BROWN UNIVERSITY,  
PROVIDENCE, R. I.

<sup>1</sup> Journals of the Legislature of New Jersey.